

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Patricia Luther,)	
)	
Plaintiff,)	Civil Action No. 6:17-1068-RMG
)	
vs.)	
)	
Nancy A. Berryhill, Acting Commissioner)	
of Social Security,)	ORDER
)	
Defendant.)	
)	
)	
)	

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation (R & R) on March 29, 2018, recommending that the decision of the Commissioner be reversed and remanded to the agency because (1) the Administrative Law Judge (ALJ) failed to inquire to the Vocational Expert about the apparent conflict between the identification of certain jobs available to Plaintiff in the marketplace, which the DOT classified as GED Reasoning Level 3, and the limitation placed by the ALJ on Plaintiff's work to simple, routine repetitive work; and (2) no fact finder weighed and reconciled the new and material opinion evidence offered for the first time at the Appeals Council level, as required by *Meyer v. Astrue*, 662 F.3d 700, 705-06 (4th Cir. 2011). (Dkt. No. 17 at 22-29). The Commissioner has advised the Court that she does not intend to file objections to the R & R. (Dkt. No. 19).

The Court has reviewed the R & R and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. On remand, the Commissioner is reminded that the effect of Plaintiff's severe and non-severe impairments, both mental and physical, must be considered in combination and not fragmented. *Walker v. Bowen*, 889 F.2d 47, 49-50 (4th Cir. 1989). Further, any post-Date Last Insured medical evidence which has a reasonable linkage to pre-Date Last Insured conditions must be considered. *Bird v. Commissioner*, 699 F.3d 337, 340 (4th Cir. 2012). In light of the protracted nature of the pendency of Plaintiff's application for disability benefits, now approaching 5 years, the Commissioner is directed to give any rehearing and Appeals Council review priority status.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Gergel', is written over a horizontal line.

Richard Mark Gergel
United States District Judge

Charleston, South Carolina
May 2, 2018